

November 22, 1996

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To: Office of The Secretary
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Gentlemen:

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Enclosed are an original and ten
(10) copies The Comments of Laverta W.
Page and Victor W. Page Station K53DU
Hemet, California.

Please conform due (1) copy if possible
and return it to us in the enclosed
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)
)
Advanced Television Systems) MM DOCKET NO. 87-268
and their Impact Upon the)
Existing Television)
Broadcast Service)

TO: The Commission

COMMENTS OF
LaVERTA W. PAGE and VICTOR W. PAGE
STATION K53DU - HEMET, CALIFORNIA

We, LaVerta W. Page and Victor W. Page, the owners of LPTV Station K53DU, hereby submit these Comments in response to the Commission's Sixth Further Notice of Proposed Rule Making ("Sixth NPRM") in the captioned proceeding, in which the Commission proposes to allot a second 6 MHz channel to each full power television station for digital television ("DPTV") stations. Such a proposal would be devastating to K53DU and all other low power television stations.

K53DU, which is headquartered in Hemet, California, broadcasts programming based on Christian family values. Recognizing the need for decent programs for children this station's programming, with its educational and religious format, is designed to uplift, improve, and educate, for families wanting this type of programming for their children.

K53DU has been operational for five years, bringing much more than religious programming to its many viewers. Its programming includes many health-related and educational programs, including cooking schools and health lectures, transmits multilingual programming and serves minorities and communities not served by any other full power or LPTV stations.

The loss of this station would be devastating to K53DU and its viewers. Public interest would be greatly disserved by depriving those viewers of K53DU programming, on which they have come to rely for issues of faith, health, education, home schooling and entertainment.

For example, within the broadcast area of K53DU, are located two local Indian tribes, the Cahuillas and Sobobas, and other minorities, including Blacks, Hispanics and Orientals. This local station is aware of the needs and special interests of these groups and can serve them in a way which the large high power stations would never be able to service their particular needs. In the past, K53DU has provided local news service of interest to the community. Planned programming includes news coverage of local schools, city council meetings, board of supervisor meeting, special events, school events, public safety and public education opportunities

Both Congress and the Commission have extolled the benefits of LPTV stations, yet the Commission's current proposal relegates its recognition of these benefits to mere lip

service.¹ There is nothing in the Communications Act that requires the Commission to allot second 6 MHz channels to all full power television stations and to give these channels away for free, even at the expense of numerous LPTV stations that will be lost in the shuffle. LPTV stations not only fail to benefit from this giveaway, but must suffer a tremendous net loss of service as envisioned by the Commission's proposed allotment plan. Perhaps most devastating to the LPTV service is the Commission's proposed "recovery" of Channels 60-69. The loss of 35%-45% of all existing LPTV operations in the Commission's current proposal is proof that the broadcast band does not have ten channels to spare. The Commission's consideration of an auction for these channels in the face of such a massive loss of LPTV service suggests that the Commission is putting monetary considerations ahead of the public interest, which it is appointed to protect and serve.

¹For example, in urging cable must carry rights for LPTV, Congressman Markey stated that, "low-power television stations that originate programming often provide the only local television service to small communities and to minority, ethnic and specialized interest groups. . . . We should encourage the development of these low-power stations." 136 Cong. Rec. H. 7249-02, H. 7266 (1990). Additionally, in passing copyright legislation rendering LPTV stations "local" for copyright purposes, Senator Mathias stated, "As long as we continue to make the benefits and burdens of compulsory licensing available for full power television, I think it is only fair and equitable to treat low power television in a consistent manner." See 123 Cong. Rec. S. 11109-01 (1986). Senator Leahy added, "I think the public interest will be well served by fulfilling the promise of low power television to expand the choices and viewpoint available to television viewers." Id.

As recently as 1994, the Commission recognized that:

"The LPTV Service is more than meeting its expectations. Today 1400 LPTV stations serve diverse audiences in more than 750 communities and in all 50 states. These communities range in population from the hundreds to the millions. The hallmarks of the LPTV service are TV "localism" and specialized "niche" programming. The LPTV service also has contributed to increased diversity in broadcast station ownership. LPTV station licensees include schools, colleges, churches, community groups, newspaper publishers and radio and TV broadcasters." **First Report and Order** in MM Docket No. 93-114, 9 F.C.C. Red. 2555, paragraphs, 2-3 (1994).

Although LPTV is a secondary service subject to displacement by full power stations, the Commission implicitly recognized the public interest benefits and audience loyalty attributable to LPTV stations when it imposed an application freeze on LPTV in the same markets in which it had earlier frozen full power applications in anticipation of DTV. **See Public Notice**, Mimeo No. 12124 (released Mar. 12, 1991). The Commission froze new LPTV stations in these areas "to minimize the extent to which low power TV and TV translator service to the public may be disrupted." *Id.*

The Commission took further steps to "contribute greatly to the orderly development and stability of the low power television service," when it adopted its "displacement" policy, permitting LPTV stations, that are displaced by conflicting primary services, to move to a different channel without facing competition from other applicants. **Report and Order** in MM Docket No. 86-286, 2 F.C.C. Red. 1278 (1987). The Commission's

proposal to "continue to permit displaced low power stations to apply for a suitable replacement channel in the same area without being subject to competing applications" in the context of the DTV proceeding is commendable. **Sixth NPRM, paragraph 67.**

We support all measures suggested by the Commission to preserve existing LPTV service, including (1) setting aside channels specially for use by displaced LPTV stations **Sixth NPRM, paragraph 70;** (2) taking terrain and other engineering factors into account and finding replacement channels **Id., paragraph 71;** (3) giving preference to LPTV over new broadcast applicants in seeking primary use of available DTV channels **Id., paragraph 72;** and (4) requiring full power licensees to permit multiplexed use of their second channels by LPTV stations that would otherwise be displaced by the Commission's allotment plan. **Id.** In those areas where LPTV service would be completely lost by awarding a second channel to all full power licensees (because there would be no alternate channels available), the Commission should consider awarding second channels to fewer full power licensees. The full power licensees can begin their digital broadcasts on their primary channels at any time. In markets where there are more than 5 or 6 full power stations, it would not serve the public interest to require all of these stations to have dual allotments if the end result is a loss of LPTV service to the public. Also, applauded is the Commission's proposal to permit LPTV operations on channels outside the core digital TV spectrum. **Id., paragraph**

68. However more can and should be done to protect the LPTV servicee and to prevent the loss of up to 45% of all LPTV stations.²

Since the Commission is proposing to give second channels to full power licensees without charge, it only makes sense to have the licensees compensate existing LPTV stations for any required move or displacement, as suggested in paragraph 68 of the **Sixth NPRM**.

It is the LPTV licensees who can ill afford additional expenses, much less a cessation of all operations, while the full power licensees would get a second equally valuable channel for free. Extracting channels from the owners of LPTV for the purpose of giving them free of charge to high power stations is discriminatory, unless the high power stations pay full market

²In the **Second Report and Order** in this proceeding, the Commission stated that it would "not deviate from established precedent and afford a preference to translators over low power stations should displacement be required." 7 F.C.C. red. 3340 paragraph 41 (1992). We note, however, that in the **Sixth NPRM**, the Commission stated that "about 80-90 percent of all TV translators would be able to continue to operate" under the Commission's current proposal while only "about 55-65 percent of existing LPTV operations" would be saved. **Sixth NPRM, paragraph 66**. It is assumed that this disparity results from the fact that TV translators tend to be in more remote areas where there are fewer full power licensees, and thus, more channels are available. However, to the extent this represents a change in Commission policy favoring translators over the LPTV service, I strongly object to such a discriminatory policy. Indeed, it can be argued that LPTV stations tend to be more localized, and thus, serve the public interest better than translators that are merely repeating the signal of a distant full power station

value of the LPTV station to the owners.

Communication is a very powerful tool. Control of communication placed in the hands of a few, ultimately places control of the country in the hands of a few people. Placing this concentration of power in the hand a very few, endangers the freedom of broadcasting and thought in this country. Totalitarian governments always control communication from one source and democracies have freedom of communication. The contemplated ruling by the FCC would move communications in a monopolistic and dangerous direction.

Additions, Not Elimination of ATV

Never before has a broadcasting service been targeted for extinction as the NTSC television service now is. Just as FM radio developed alongside AM radio, ATV should be allowed to develop alongside the existing NTSV service. The conversion to ATV should be voluntary on the part of each station, when affordable, and not mandated by the Commission. The Commission should not mandate change but let free enterprise gradually convert the stations to ATV, instead of the proposed required conversion over a mere 15 years. The Commission did not force AM radio stations to convert to FM. It has allowed the two to co-exist, for more than half a century, and both services continue to serve the public interest in an exemplary manner. The rights of LPTV to make their own transitions as is affordable is an indispensable requirement, versus mandatory conversion, irregardless of adverse financial impact imposed

upon the broadcasters.

Low Power Television is vital to communication and is indispensable. It must be preserved. Mandatory conversion to ATV would have an unreasonably adverse impact upon the broadcaster, the public and the economy.

Impact On Small, Non-Profit, and Minority Broadcasters

Lacking the financial resources to convert to ATV, small entities, minority controlled entities, non-profit organizations, stations in rural areas--owners of LPTV stations everywhere--would face the loss of the majority of their stations. Television broadcasting would become the exclusive domain of a few large entities having the financial resources to control the industry. Ethnic diversity of ownership and viewpoint would be lost.

Public Impact

Large numbers of viewers would find conversion to ATV financially burdensome in being forced to discard their existing equipment to invest in new ATV receivers. Minorities, the elderly, and all low income residents would be most severely damaged by the loss of NTSC service. This action is unwarranted governmental intrusion, which, even with a 15-year transition period, restricts the U.S. citizens rights to freedom of choice.

Economic Impact

To implement this mandatory conversion literally requires a spending of billions of dollars for hundred of millions of new

ATV receivers. The majority of these funds would be large paid to manufacturers in foreign countries, such as Indonesia, Japan, Korea, Malaysia, Singapore and China. The trade deficit would **substantially** increase. This massive spending required for ATV would drain resources that would otherwise be spent on American made products and services, creating jobs here instead of overseas.

Unused Broadcast Spectrum

Supposedly, there are available channels in unassigned broadcast spectrum, available for the Commission to make available for use by television stations. If the Commission would open up these channels, there would be enough channels for both high power and low power stations, without disrupting the LPTV industry. If new channels were opened, they could be auctioned to the high power stations in lieu of the proposed recovery of Channels 60-69. Wouldn't this be a better solution?

Summary

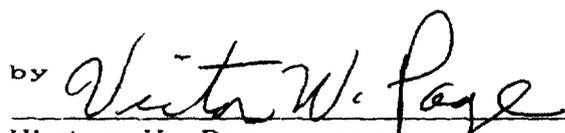
In the **Sixth NPRM**, the Commission continues to recognize the benefits that low power stations provide to the public. LPTV stations have increased the diversity of television programming and station ownership, and served many rural, urban, minority and ethnic communities. For the Commission to recognize and allow these benefits to continue, it cannot permit an allotment plan to go forward that would destroy a large 35%-45% of the existing LPTV stations, as it's current allotment proposal would

effect. Whether the Commission changes its allotment plan, sets aside channels specifically for LPTV, or gives away second channels to fewer than all full power licensees, the Commission should not proceed with a plan that would result in a net loss of broadcasting service to the public. Such a plan clearly disserves the public interest, for which the the Commission was specifically appointed to service and protect.

Respectfully submitted,

CHANNEL K53DU, HEMET, CA

by 
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